IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2296 OF 2006

Smt.Sushma Ramesh Chile Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

Mr.Sameer S. Tambekar for Petitioner.
Mr.Y.M. Nakhawa APP for the State.

CORAM : V.M. KANADE, J.

DATED : 23rd OCTOBER, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned APP for the State.

2. Petitioner seeks modification of the order passed by the Judicial Magistrate, First Class, Rajapur, dated 30/06/2006 whereby the Petitioner was permitted to sale Truck bearing No.MH-08-8030. However, a condition was imposed directing that at the time of sale of the Truck, the Petitioner shall ask the purchaser of the Truck to execute a bond that he will produce the same truck without doing the changes or alterations to the said Truck. The Petitioner takes exception to the condition imposed by the Trial Court.

3. It is submitted by the learned counsel for the Petitioner that in view of this condition, it is not possible to the Petitioner to sale the Truck. It is submitted that production of the Truck is not necessary since panchanama was made and photographs of the Truck have also been taken.

4. In my view, submissions made by the learned counsel for the Petitioner needs to be accepted. Petitioner's husband died in the said accident and, thereafter, possession of the Truck was handed over to the Petitioner with leave of the Court. In my view, it is not necessary to produce the Truck at the time of trial since panchanama has already been made by the Investigating Officer and said panchanama is on record. Photographs of the Truck have also been taken. Condition, therefore, imposed by the Trial Court is modified. The Petitioner may sale the Truck. However, indemnity bond may be given by the Petitioner that in the event any claim is made by any third party, the Petitioner shall deposit sale proceeds of the Truck in the Court. With this clarification, order passed by the Trial Court is modified. The Petition is disposed of accordingly. Parties

to act on authenticated copy of this order.

V.M. KANADE, J.